

House Bill 75

By: Representatives Day of the 163rd, Horne of the 71st, and Neal of the 1st

A BILL TO BE ENTITLED

AN ACT

To amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to serious traffic offenses, so as to provide for additional offenses which amount to felony fleeing or attempting to elude a police officer; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to serious traffic offenses, is amended by revising Code Section 40-6-395, relating to fleeing or attempting to elude a police officer, as follows:

"40-6-395.

(a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or police officer when given a visual or an audible signal to bring the vehicle to a stop. The signal given by the police officer may be by hand, voice, emergency light, or siren. The officer giving such signal shall be in uniform prominently displaying his or her badge of office, and his or her vehicle shall be appropriately marked showing it to be an official police vehicle.

(b)(1) Any person violating the provisions of subsection (a) of this Code section shall be guilty of a high and aggravated misdemeanor and:

(A) Upon conviction shall be fined not less than \$500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay, or probation and imprisoned for not less than ten days nor more than 12 months. Any period of such imprisonment in excess of ten days may, in the sole discretion of the judge, be suspended, stayed, or probated;

(B) Upon the second conviction within a ten-year period of time, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, shall be fined not less than \$1,000.00 nor more

than \$5,000.00, which fine shall not be subject to suspension, stay, or probation and imprisoned for not less than 30 days nor more than 12 months. Any period of such imprisonment in excess of 30 days may, in the sole discretion of the judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous pleas of nolo contendere accepted within such ten-year period shall constitute convictions; and

(C) Upon the third or subsequent conviction within a ten-year period of time, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, shall be fined not less than \$2,500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay, or probation and imprisoned for not less than 90 days nor more than 12 months. Any period of such imprisonment in excess of 90 days may, in the sole discretion of the judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous pleas of nolo contendere accepted within such ten-year period shall constitute convictions.

(2) For the purpose of imposing a sentence under this subsection, a plea of nolo contendere shall constitute a conviction.

(3) If the payment of the fine required under paragraph (1) of this subsection will impose an economic hardship on the defendant, the judge, at his or her sole discretion, may order the defendant to pay such fine in installments and such order may be enforced through a contempt proceeding or a revocation of any probation otherwise authorized by this subsection.

(4) Notwithstanding the limits set forth in any municipal charter, any municipal court of any municipality shall be authorized to impose the punishments provided for in this subsection upon a conviction of violating this subsection or upon conviction of violating any ordinance adopting the provisions of this subsection.

(5)(A) Any person violating the provisions of subsection (a) of this Code section who; ~~while fleeing or attempting to elude a pursuing police vehicle or police officer~~ also commits two or more of the following aggravating factors at the time of the violation:

(i) Except as otherwise provided in this paragraph, flees in an attempt to escape arrest for any offense other than a violation of this chapter;

(ii) Operates ~~operates~~ his or her vehicle in excess of ~~30~~ 20 miles an hour above the posted speed limit;

(iii) Strikes ~~strikes~~ or collides with another vehicle or a pedestrian;

(iv) Flees ~~flee~~s in traffic conditions which place the general public at risk of receiving serious injuries; ~~or;~~

(v) Flees in an attempt to escape arrest for a serious traffic offense listed in Article 15 of this Chapter;

1 (vi) Drives with a child under the age of 18 in the vehicle;

2 (vii) Drives without a valid driver's license or while his or her privilege to drive is
3 revoked or suspended;

4 (viii) Operates a vehicle with any amount of alcohol, controlled substance, or
5 marijuana present in the person's blood, breath, or urine; or

6 (ix) Leaves ~~leaves~~ the state

7 shall be guilty of a felony punishable by a fine of \$5,000.00 or imprisonment for not less
8 than one year nor more than five years or both.

9 (B) Following adjudication of guilt or imposition of sentence for a violation of
10 subparagraph (A) of this paragraph, the sentence shall not be suspended, probated,
11 deferred, or withheld, and the charge shall not be reduced to a lesser offense, merged
12 with any other offense, or served concurrently with any other offense.

13 (c) It shall be unlawful for a person:

14 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau of
15 Investigation, agent of the Federal Bureau of Investigation, police officer, or any other
16 authorized law enforcement officer by using a motor vehicle or motorcycle designed,
17 equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to any
18 federal, state, or local law enforcement agency; or

19 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,
20 or otherwise control traffic."

21 **SECTION 2.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law
23 without such approval.

24 **SECTION 3.**

25 All laws and parts of laws in conflict with this Act are repealed.